

No. 9/6/86-6Lab./5598.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of General Manager, Haryana Roadways, Jind, (ii) The State Transport Controller, Haryana, Chandigarh:—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER,
LABOUR COURT, AMBALA

Ref. No. 154 of 1984

(Old No. 85 of 1982)

SHRI MAHABIR SINGH, WORKMAN AND THE MANAGEMENT OF GENERAL
MANAGER, HARYANA ROADWAYS, JIND, (II) THE STATE TRANSPORT
CONTROLLER, HARYANA, CHANDIGARH.

Present :—

Shri Tejinder Singh, for workman.

Shri Radhey Sham, ADA for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred dispute between Shri Mahabir Singh Conductor, C/o Shri Dharam Pal Pathak, Resident of V. & P. O. Ugrakheri, tehsil Panipat, district Karnal and General Manager, Haryana Roadways, Jind, originally to Labour Court, Rohtak. The terms of the reference are as under :—

“Whether termination of services of Shri Mahabir Singh, was justified and in order? If not, to what relief is he entitled?”

The Labour Court at Ambala was constituted in April, 1984; so this reference was received by transfer.

Workman Mahabir Singh through his demand notice alleged that he has been employed in the employment of respondent-management as a Conductor for the last five years and has been drawing Rs. 540 P.M. He further alleged that on 6th August, 1981 his services were terminated without any cause and in violation of section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the services of workman were terminated after complying with the prescribed procedure including the fair and proper domestic enquiry. It was also contended that against the order of the G.M. the workman filed appeal to S.T.C. and the same was also rejected on 10th May, 1982. It was further contended that the workman has embezzled public funds. He was caught red-handed by the flying squad at Lakhan Majra. It was further contended that the reference is bad and the termination orders are legal and correct.

Workman filed replication through which he controverted the allegations of the respondent-management and re-affirmed his own claim.

On the pleadings of the parties the following issues were framed by my Ld. predecessor on 26th April, 1983 :—

Issues:

- (1) Whether management has conducted a fair and proper enquiry? O.P.M.
- (2) As per terms of reference bonus on parties.

I have heard Shri Tejinder Singh and workman and have heard Shri Radhey Sham, ADA for respondent-management and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under :—

Issue No 1.—

Management in support of his case examined Shri Satbir Singh, Clerk as -MW-1. Who stated that on 31st March, 1980 Shri Mahabir Singh, Conductor was coming with bus No. 1511 as Conductor from Rohtak to Lakhan Majra, the bus was checked by Shri Baljit Singh, flying squad and was found that Shri Mahabir Singh, Conductor had charged fare from Nine passengers from Rohtak to Lakhan Majra but he issued tickets to them from Bhagwati Pur to Lakhan Majra. Thus he embezzled Rs. 8.55. Show-cause notice, charge-sheet were issued to workman which were replied by the workman. His reply was not found satisfactory, so Shri Bhup Singh, Traffic Manager was appointed as Inquiry Officer who recorded statement of witnesses. The witnesses were cross-examined by the workman. Thereafter, the Inquiry Officer

submitted his report to the General Manager, Haryana Roadways, Jind. Who invited the workman for personal hearing and opportunity of being personal hearing to workman was afforded by the G. M. and thereafter services of the Mahabir, Conductor were terminated.

Shri Bhup Singh, General Manager, Haryana Roadways Depot, Rewari was examined as MW-2 he stated on oath that in the month of September, 1980 he was posted as a Traffic Manager, Haryana Roadways Depot, Jind. He was appointed as Inquiry Officer in this case, vide orders Ex. M-2. He issued notices to the parties. Inquiry proceedings are Ex. M-4. He further stated that he examined the complaint and afforded full opportunity of cross-examination to Conductor Mahabir Singh. Thereafter, he prepared his enquiry report Ex. M-5 which is submitted to G.M., Haryana Roadways, Jind. He further stated that statement of workman was also recorded. During enquiry proceedings the workman did not make any demand for any document or a copy of any document. In cross-examination he stated that the signatures of Mahabir Singh are present on the enquiry proceedings. MW-3 Shri Baljit Singh Inspector appeared in the witness-box he deposed that Ex. M-6 was signed by him. He stated that he checked the bus at bus stoppage, Lakhn Majra which was coming from Rohtak. Shri Mahabir Singh, Conductor had charged fare from nine passengers from Rohtak to Lakhn Majra and issued tickets only from the Bhagwatipur to Lakhn Majra. When he checked the bus Shri Des Raj Inspector of Depot Rohtak was also present. He further stated that he took into possession punched and unpunched tickets and attached with the complaint which is submitted to General Manager against Conductor Mahabir Singh. In cross-examination he stated that he neither record statement of any passenger nor he checked the cash of the conductor nor he obtained the signatures of Mahabir Singh on the unpunched tickets.

Shri Mahabir Singh appeared as AW-1 he stated that no list of witness, no copy of proceedings of enquiry were supplied to him. His cash was not checked, he had issued tickets correctly in cross-examination he admitted that it is correct the passengers had boarded the bus from Rohtak for Lakhn Majra but he issued tickets from Bhagwatipur. He also admitted that he was given an opportunity by G.M. for being heard. He stated that he could not avail of an opportunity to lead defence evidence because he was not spared from the route.

In view of the above evidence a major contradiction has cropped up in the reply of charge-sheet and statement of Shri Mahabir Singh. In the reply of charge-sheet workman stated that he had issued tickets to all the nine passengers from Rohtak to Bhagwatipur and thereafter the passengers continued to sit in the bus up to Lakhn Majra. When he noticed it and was busy in issuing the tickets. The Checker came and apprehended these passengers.

Admission of workman Conductor Mahabir Singh that the passengers boarded bus from Rohtak for Lakhn Majra and he issued tickets to them from Bhagwatipur to Lakhn Majra clearly shows that he embezzled a sum of Rs. 8-55.

As per the statement of Inquiry Officer it is evident that workman was afforded full opportunity to cross-examination the witnesses. He also afforded him an opportunity to read defence evidence G. M., Haryana Roadways also heard him in person before passing his termination order.

I have minutely gone through the enquiry file and of the view that enquiry proceedings were conducted by Shri Bhup Singh the then the Traffic Manager, Depot Jind in a proper and fair manner and there is no defect in the same. So this issue is decided, in favour of management against workman.

Issue No. 2 :

As per my discussions on issue No. 1 it has been fully proved that the domestic enquiry was conducted in a fair and proper manner. Witnesses who appeared in the witnesses box have also supported that the workman was given full opportunity to cross-examine the witnesses, to lead defence evidence and he was also heard him in person by G.M., Haryana Roadways, Jind before passing his termination order so I reach at the conclusion on the basis of evidence on the file that the termination order regarding the services of Conductor Mahabir Singh is legal and correct, so I pass award regarding the dispute between the parties accordingly.

Dated the 2nd June, 1986.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 1604, dated 6th June, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act. 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

KULWANT SINGH,
Secretary to Government, Haryana,
Labour and Employment Department.